

NORTHERN IRELAND (MONITORING COMMISSION ETC.) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10: Secretary of State's directions: procedure etc

New Schedule 12A

55. Paragraphs 1 to 8 of new Schedule 12A make consequential provision for the case where a direction under new section 30A(5), which excludes all members of a party from holding Ministerial office and in reliance on new section 95A(4) is made without first being approved, fails to gain parliamentary approval. In the case of paragraphs 5 to 8 provision is also made for the case where a direction made under new section 30A(2), which excludes a First Minister or Deputy First Minister from office and which in reliance on new section 95A(4) is made without first being approved, fails to gain parliamentary approval. The effect is, so far as is possible, to reconstitute the Executive in the form it was prior to the direction taking effect.
56. Paragraphs 2 to 4 deal with the position of **Northern Ireland Ministers and junior Ministers**. Those Northern Ireland Ministers or junior Ministers who lost office as a result of being excluded by the direction shall resume office if they remain eligible to do so. If an excluded Northern Ireland Minister is no longer eligible to hold office, the nominating officer of that Minister's party will be able to nominate a replacement under section 18(10) of the 1998 Act. Provision made in Assembly standing orders for the filling of junior Ministerial vacancies will apply if an excluded junior Minister is not eligible to resume office.
57. Paragraphs 5 to 8 make provision for the case where a direction under new section 30A(2) or 30A(5), which in reliance on new section 95A(4) has been made without first being approved and has resulted in either **the First Minister or Deputy First Minister** being excluded from holding Ministerial office, subsequently fails to gain Parliamentary approval. The intention once again is, so far as possible, to restore the position as it was prior to the direction being given. Provided the two individuals who held the offices at the time of the exclusion remain eligible to hold office, the two of them will again be the holders of the two offices. They will resume office regardless of whether in the interim there has been an election or the offices have remained vacant (any election will have been to both offices since, where only one of them was excluded, the other's office will have become vacant by operation of section 16 of the 1998 Act). If the offices are not filled in this way, because, for example, either or both of the individuals are no longer eligible, then the six weeks for the election of a new First Minister and deputy First Minister under section 16(8) will run from the date when the direction ceases to have effect.